IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1475 OF 2006

Shivaji Tukaram Vanave & Anr. .. Petitioners.
Vs.
Housabai Shrirang Vanave & Ors. .. Respondents.

Mr.Nitin Mulye i/b Mr.G.S.Godbole for the petitioners.
Mr.S.M.Sabrad for respondent nos.1 to 4.

CORAM : D.B.BHOSALE, J.
DATED : 18TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitioners and respondent nos.1 to 4.

2. Rule, returnable forthwith. By consent of the parties taken up for final hearing. Mr.Sabrad, learned counsel waives service for respondent nos.1 to 4.

3. This petition is directed against the order dated 28.11.2005 passed by the trial Court on the applications at Exhibit-35 and Exhibit-42 filed by the petitioners i.e. defendant nos.2 and 3 respectively. They have filed the aforesaid applications for setting aside "No W.S." order dated 5th March, 2005 passed by the court below. The delay in making these applications was of four months. The suit has been filed by the respondents-plaintiffs for partition

and separate possession of their share in the suit property. Keeping that in view, in my opinion, the interest of justice would be met if the petitioners i.e. defendant nos.2 and 3 are allowed to file written statement within two weeks from the date of receipt of this order on payment of cost. The learned counsel for the parties fairly stated that I need not record detail reasons and they have agreed for the following order. Hence I pass the following order:

. The order dated 28.11.2005 impugned in the present writ petition is quashed and set aside. "No W.S." order dated 15th March, 2005 also stands quashed and set aside. The petitioners are allowed to file written statement within two weeks from the date of receipt of this order failing which "No.W.S." order shall stand revived and in that case the trial Court may proceed with hearing of the case without written statement of the petitioners. This is subject to payment of cost of Rs.1500/- to be paid by the petitioners to the respondents-plaintiffs within one week from the date of receipt of this order, failing which, the defendants shall not be allowed to file written statement as aforestated. The hearing of suit is expedited.

. With these directions the rule is disposed of.

(D.B.Bhosale, J.)